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Lowell W. Payson - Chairman

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May 6, 2003

The Honorable Michael K. Powell
 Chairman
 Federal Communications Commission
 The Portals
 445 12th Street, S.W.
 8th Floor
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**Re: The Digital Transition**

Dear Chairman Powell:

While the wheels of progress seem to move more slowly in Washington than in the rest of the country, two statements that were attributed to you this past week have given me great hope for final FCC resolution of the multicast must carry issue. And then, lo and behold, your April 29, 2003 letter to Senator McCain was released announcing a Media Bureau digital transition questionnaire project and the FCC appears to have taken a step backwards.

First the items that gave me encouragement. It has been reported that your agenda for FCC action following the June 2, 2003 issuance of new media ownership rules will include the resolution of the multicast must carry rulemaking proceeding. I urge you to make this the first item on your post-ownership agenda. Schedule it for the July meeting.

Do not let this very important issue slip to the fall or thereafter. As you know, the Commission's initial decision in this area was released over 27 months ago and the comment periods for both the reconsideration requests and further rulemaking closed nearly two years ago. Since that time, the Commission has been inundated with further factual and legal analysis on digital multicast must carry. It is now time for final FCC action. Nothing further remains to be said and it is unfair to all of the industries involved, and to the viewing public, to let this proceeding languish without Commission action. Further delay is unconscionable.

It was also reported that, in an interview with Financial Times, you noted that the current regulatory environment threatens the continued viability of free, over-the-air broadcast

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television and that the economics of the television business have become dramatically strained. You are right to express those concerns because of the importance that

broadcasting plays not only for the economy, but also for the political processes of this country.

We have argued for the past several years that with the digital transition, over-the-air broadcasting would rely more and more on multicasting to survive and that, in light of the predominate gate-keeper role that cable plays in every market, multicast must carry is the only way of guaranteeing that the multiple streams of free, over-the-air programming will, in fact, be made available to all viewers. These programming streams provided by the local stations will dramatically increase television localism and diversity. This unprecedented increase in local television programming will only succeed if these programs are carried by cable and made available to all subscribers. Economic viability and multicast must carry go hand-in-hand for digital over-the-air broadcasters and this link has already been recognized by the Supreme Court in its Turner Broadcasting decision.

Having said all of that, I emphatically urge you not to let the Media Bureau's questionnaire project (apparently to be directed to broadcasters, cable operators and set manufacturers) delay in any way the Commission's final resolution of its multicast must carry docket. **There is no reason for any further delay** and no amount of information that will be gathered by the Media Bureau will provide any legal or factual guidance in crafting final multicast must carry rules.

I do however think it will be helpful to have the information being sought by the Media Bureau so that a year from now a similar request can be sent and the results can be compared. This will enable the Commission to make a pre-multicast must carry and post-multicast must carry evaluation of the impact on the digital transition. I assure you that the adoption of full multicast must carry will produce a dramatic change in the current lethargic digital transition. I simply urge you not to let the Bureau's fact-gathering efforts delay the adoption of multicast must carry rules which is long overdue.

Sincerely,

Lowell W. Paxson
Chairman and CEO
Paxson Communications Commission

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein